



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

April 19, 1947

Hon. Paul H. Brown
Secretary of State
Austin, Texas

Opinion No. V-156

Re: The authority of the Secretary of State to accept, as payment for capital stock, legal services rendered before the filing of charter application.

Dear Sir:

You have submitted the following request for the opinion of this Department.

"This office has pending an application for corporate charter. As part of the payment of capital stock in said corporation, there is included one hundred dollars for legal services rendered. It will be noted that the application for the proposed corporation has not been filed; and, therefore, said services have been rendered prior to said corporation becoming a legal entity.

"It would seem that such service could not be exchanged for capital stock, in view of Hackney v. York, 18 S.W. (2d) 923; W. M. W. & N. W. Ry. Co. v. Granger, 86 Texas 350; McAlister v. Eclipse Oil Co., 92 S.W. (2d) 545; and 8 T.L.R. 204.

"Can the attorney's fees under these circumstances be accepted by this office as payment for capital stock?"

The rule of law applicable to the facts above set forth is stated in the opinion in the case of Hackney v. York, 18 S.W. (2d) 923.

"It was clearly held in Weatherford, M. W. & N. W. Railway Co. v. Granger, 86 Tex. 350, 24 S.W. 795, 40 Am. St. Rep. 837, that the fee of an attorney 'in advising as to the articles of incorporation and in correcting and preparing this paper' could not

be charged against the corporation after the filing of its charter, in the absence of a provision in the statutes or in the articles of incorporation casting this burden upon it."

The attorney's fees for such legal services cannot be accepted in part payment of the capital stock of said corporation.

SUMMARY

Legal services rendered prior to incorporation do not constitute labor done so as to constitute payment of capital stock subscribed under the provisions of Article XII, Section 6, Constitution of Texas or Article 1308, Revised Civil Statutes of Texas, 1925.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By



O. K. Richards
Assistant

CKR/lh

APPROVED: April 19, 1947



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